

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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HOMER O. REED.

Case No. 2:15-cv-00142-APG-PAL

Plaintiff,

ORDER

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PEGGY MARTINEZ et al.

Defendants.

10 On June 19, 2015, the Court issued a screening order permitting Count I's Eighth
11 Amendment inadequate conditions of confinement claim to proceed against defendant
12 Peggy Martinez but dismissed the claim with leave to amend against defendant
13 Aramark and dismissed Count II with leave to amend. (Dkt. #8 at 7-8). The Court
14 granted Plaintiff 30 days from the date of that order to file an amended complaint curing
15 the deficiencies of the portion of Count I against Aramark and Count II. (*Id.*). The Court
16 specifically stated that if Plaintiff chose not to file an amended complaint, the action
17 would proceed only on Count I's Eighth Amendment inadequate conditions of
18 confinement claim against defendant Peggy Martinez. (*Id.* at 8). Plaintiff has not filed
19 an amended complaint. Pursuant to the screening order, this action shall proceed on
20 Count I's inadequate conditions of confinement claim against defendant Peggy Martinez
21 only.

22 For the foregoing reasons, IT IS ORDERED that, pursuant to the Court's
23 screening order (Dkt. #8), this action shall proceed on Count I's inadequate conditions
24 of confinement claim against defendant Peggy Martinez only.

25 IT IS FURTHER ORDERED that the portion of Count I against Defendant
26 Aramark is dismissed with prejudice for failure to state a claim.

27 IT IS FURTHER ORDERED that Count II is dismissed with prejudice for failure to
28 state a claim.

1 **IT IS FURTHER ORDERED** that the Clerk of Court **SHALL ISSUE** a summons
2 for Defendant Peggy Martinez, **AND DELIVER THE SAME**, along with the complaint
3 (Dkt. #9), to the U.S. Marshal for service. The Clerk also **SHALL SEND** to Plaintiff **one**
4 USM-285 form, one copy of the complaint and a copy of this order. Plaintiff shall have
5 **thirty (30) days** within which to furnish to the U.S. Marshal the required USM-285 form
6 with relevant information as to the Defendant on the form. Within **twenty (20) days**
7 after receiving from the U.S. Marshal a copy of the USM-285 form showing whether
8 service has been accomplished, Plaintiff must file a notice with the Court stating
9 whether Defendant was served. If Plaintiff wishes to have service again attempted on
10 Defendant, then a motion must be filed with the Court specifying a more detailed name
11 and/or address for Defendant, or whether some other manner of service should be
12 attempted.

13 **IT IS FURTHER ORDERED** that the Court, in its discretion, may order a
14 *subpoena duces tecum* to the custodian of records directing the custodian to provide
15 last-known address of the Defendant.

16 **IT IS FURTHER ORDERED** that henceforth, Plaintiff shall serve upon Defendant
17 or, if appearance has been entered by counsel, upon the attorney(s), a copy of every
18 pleading, motion or other document submitted for consideration by the Court. Plaintiff
19 shall include with the original paper submitted for filing a certificate stating the date that
20 a true and correct copy of the document was mailed to the Defendant or counsel for the
21 Defendant. The Court may disregard any paper received by a district judge or
22 magistrate judge which has not been filed with the clerk, and any paper received by a
23 district judge, magistrate judge or the clerk which fails to include a certificate of service.

24 Dated: October 21, 2015.

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28 UNITED STATES DISTRICT JUDGE